

ORIGINAL

FILE

ORIGINAL

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 11 1992

In the Matter of

Amendment of Rules Governing
Procedures to Be Followed When
Formal Complaints Are Filed
Against Common Carriers

Federal Communications Commission
Office of the Secretary

CC Docket No. 92-26

REPLY COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint") herein
replies to comments filed on April 21, 1992 in the
above-captioned proceeding.

I. DISCOVERY ISSUES

The NPRM sought comment on several discovery-related
issues. The role of discovery in the complaint process is
crucial. Although discovery can be a time-consuming part of
the process, many parties had useful suggestions for
improvements which should help expedite the Commission's
approach to discovery issues.

The North American Telecommunications Association
("NATA"), for example, agreed with Sprint that document
production be made self-executing (see NATA Comments at 7).
Self-executing document production should help speed up the
process because the production of documents often is essential
to development of a complete record in a complaint case (see
Sprint Comments at 4). Yet under current and proposed
procedures, only interrogatories are self-executing, and

100 copies rec'd
LMA CODE

0+6

parties are limited to thirty questions. Parties must file a motion seeking permission to pursue any additional discovery, including document production, and must await a staff ruling before obtaining such discovery. This procedure creates needless delay because often decisions with respect to such motions are not rapidly reached. The complaint process would be improved if the Commission permitted self-executing document production (see Sprint Comments at 5).

Many parties, including Sprint, also discussed the difficulties of attempting to limit relevance objections in the discovery process (see Sprint Comments at 5). The FCBA Comments are representative, noting that "without a relevance limitation, discovery will become a fishing expedition" (FCBA Comments at 11). Similarly, attempting to transform unanswered or objectionable questions into admissions (see NPRM at para. 15) is, as the FCBA notes, "likely to complicate the discovery process..." (see FCBA Comments at 10). Other parties noted that the proposal would be "impossible to administer" (see Hirrel Comments at 9), and would "invite abuse" (see MCI Comments at 21).

Rather than attempt an approach that could cause harassment, Sprint believes that the Commission can exert better control over the process. If it appears to the Commission in particular instances that the relevance objection is being used simply as a delaying tactic, the Commission can explicitly discourage such abuse by giving the parties a clear sense of what scope of discovery will be permitted.

Sprint agrees with those commenters who suggest increased use of status conferences to resolve disputes (see, e.g., FCBA Comments at 13). Indeed, as MCI points out, ruling on discovery issues at status conferences would be quicker than resolving such issues solely on the basis of written motions (see MCI Comments at 20). However, Sprint emphasizes that status conferences will be useful only if the staff is willing to exert "control and decisiveness in moving the parties through the discovery process" (see Sprint Comments at 7).

Several parties noted the need for more than one round of discovery (see, e.g., NATA Comments at 8). In some cases, "follow-up" discovery may be necessary, and the Commission should make clear to the parties that if answers are non-responsive or new relevant information is discovered, that additional discovery will be permitted if the appropriate showing is made to the Commission (see Hirrel Comments at 8). Certainly the Commission will have a better record upon which it may base its decisions if it permits parties to seek the appropriate type and level of information during discovery, upon a showing that the need for such additional information, on balance, outweighs the harm of unnecessary delay.

II. TIMING ISSUES

Sprint's initial Comments noted that some of shortened response times suggested in the NPRM may develop a record ripe for decision more quickly, but in complex cases, more time may be necessary (see Sprint Comments at 3). Thus Sprint suggested that the Commission must be willing to liberally grant

extensions of time (Id.). The FCBA agrees that shortened time periods may lead to more requests for extensions of time (see FCBA Comments at 4).¹

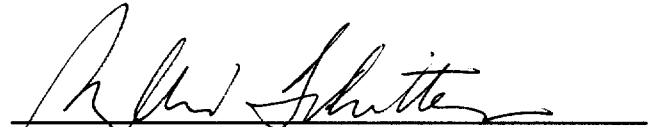
Moreover, many parties noted that the more important issue is the time it takes for the Commission to reach a decision after briefs are submitted and the case is ripe for decision(see, e.g., Sprint Comments at 2, AT&T Comments at 2, MCI Comments at 4, Hirrel Comments at 3-4). As those parties emphasize, once the record is established, the Commission's challenge is to examine its own processes for reaching decisions, so that the parties to the complaint and the public generally reap the benefit of a full, fair and timely decision. The Commission can fulfill its statutory mandate and public interest responsibilities by taking more steps toward rendering decisions in complaint cases on an expedited basis once such cases are ripe for decision.

¹With respect to the the timing of briefs, the FCBA suggests that the Commission, especially in complex cases, should continue to allow staff flexibility in setting deadlines for submission and pages lengths, "taking into consideration complexity of issues...the amount of discovery and other matters..." (FCBA Comments at 4).

Adoption of the revisions suggested herein should contribute to improvement of the formal complaint process, and Sprint respectfully recommends that the Commission implement such revised procedures as a part of its overall efforts to expedite decisionmaking in formal complaint cases.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY L.P.

A handwritten signature in dark ink, appearing to read "Leon M. Kestenbaum", is written over a horizontal line.

Leon M. Kestenbaum
Phyllis A. Whitten
1850 M St., N.W., Suite 1110
Washington, D.C. 20036
(202) 857-1030

Its Attorneys

May 11, 1992

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Reply Comments of Sprint Communications Company L.P." was sent via first-class mail, postage prepaid, on this the 11th day of May, 1992, to the below-listed parties:

Cheryl Tritt, Chief*
Common Carrier Bureau
Federal Communications
Commission
1919 M St., N.W., RM 500
Washington, D.C. 20036

Carl Lawson, Deputy*
Chief (Policy)
Common Carrier Bureau
Federal Communications
Commission
1919 M St., N.W., RM 500
Washington, D.C. 20036

Thomas Wyatt*
Chief, Formal Complaints
& Investigations Branch
Common Carrier Bureau
Federal Communications
Commission
1250 23rd St., N.W.
Washington, D.C. 20554

Durward D. Dupre
Richard C. Hartgrove
J. Paul Walters
Southwestern Bell Telephone Co.
1010 Pine Street, Room 2114
St. Louis, Missouri 63101

Lawrence E. Sarjeant
Anna Lim
U S West Communications, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Gregory Weiss, Deputy*
Division Chief, Operations
Enforcement Division
Federal Communications
Commission
1250 23rd St., N.W.
Washington, D.C. 20554

Robert Spangler, Deputy*
Chief, Policy
Enforcement Division
Common Carrier Bureau
Federal Communications
Commission
1250 23rd St., N.W.
Washington, D.C. 20554

Mary Morano*
Enforcement Division
Common Carrier Bureau
Federal Communications
Commission
1250 23rd St., N.W.
Washington, D.C. 20554

Frank W. Krogh
Donald J. Elardo
MCI Telecommunications Corp.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Jerome K. Blask
Daniel E. Smith
Gurman, Kurtis, Blask &
Freedman, Chartered
1400 16th St., N.W., Suite 500
Washington, D.C. 20036
Continental Mobile Telephone
Company, Inc.

Roy L. Morris
AllNet Communication
Services, Inc
1990 M St., N.W., Suite 500
Washington, D.C. 20036

Carol F. Sulkes
Central Telephone Company
8745 Higgins Road
Chicago, Illinois 60631

Robert L. James
John D. Seiver
Susan Whelan Westfall
Cole, Raywid & Braverman
Suite 200
1919 Pennsylvania Ave., N.W.
Washington, D.C. 20006
United Video, Inc. and
Superstar Connection

Robert L. Goegle
Timothy J. Fitzgibbon
Carter, Ledyard & Milburn
Suite 870
1350 I Street, N.W.
Washington, D.C. 20005
Southern Satellite Systems,
Inc. and Netlink USA

David J. Wittenstein
Dow, Lohnes & Albertson
Suite 500
1255 23rd Street, N.W.
Washington, D.C. 20037
Eastern Microwave, Inc.

Patrick A. Lee
Wedard E. Niehoff
NYNEX
120 Bloomingdale Road
White Plains, NY 10605

Lisa E. Manning
Williams Telecommunications
Group, Inc.
Suite 3600
P.O. Box 2400
One Williams Center
Tulsa, Oklahoma 74102

William B. Barfield
Richard M. Sbaratta
Helen A. Shockey
BellSouth Corporation
1155 Peachtree St., N.E.
Atlanta, GA 30367-6000

Theodore D. Frank
Vonya B. McCann
Arent, Fox, Kintner, Plotkin
& Kahn
1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339

Albert H. Kramer
Helen M. Hall
Keck, Mahin & Cate
1201 New York Ave., N.W.
Penthouse Suite
Washington, D.C. 20005
North American Telecommuni-
cations Association

Francine J. Berry
Mark C. Rosenblum
AT&T
Room 3244J1
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Floyd S. Keene
Barbara J. Kern
Ameritech Operating Companies
2000 West Ameritech Center Dr.
Room 4H88
Hoffman Estates, IL 60196

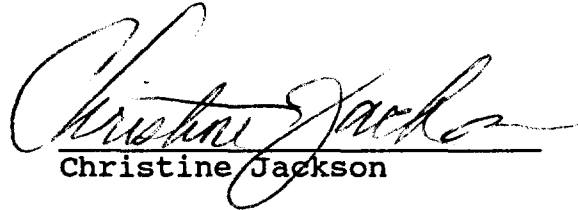
John D. Lane
Federal Communications Bar
Association
1150 Connecticut Ave., N.W.
Washington, D.C. 20036

James P. Tuthill
Nancy C. Woolf
Pacific Bell
Nevada Bell
1275 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Daryl L. Avery
Peter G. Wolfe
Brenda K. Pennington
Public Service Commission of
the District of Columbia
450 Fifth Street, N.W.
Washington, D.C. 20001

Michael J. Hirrel
Suite 200-E
1300 New York Avenue, N.W.
Washington, D.C. 20005

Michael D. Lowe
J. Manning Lee
Bell Atlantic Telephone
Companies
1710 H Street, N.W.
Washington, D.C. 20006



Christine Jackson

May 11, 1992

* BY HAND